

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CARLTON LANE,

Plaintiff,

v.

JOSEPH F. TAVARES, M.D., *et al.*,

Defendants.

CIVIL ACTION NO. 3:14-CV-991

(JUDGE CAPUTO)

(MAGISTRATE JUDGE SCHWAB)

ORDER

NOW, this 7th day of December, 2016, **IT IS HEREBY ORDERED** that:

- (1) Magistrate Judge Schwab's Report and Recommendation (Doc. 177) is **ADOPTED in its entirety**.
- (2) Defendant Joseph F. Tavares' Motion to Dismiss the Amended Complaint (Doc. 149) is **GRANTED in part and DENIED in part**:
 - (a) Plaintiff Carlton Lane may proceed on the following claims against Defendant Joseph F. Tavares:
 - (i) denial of a First Amendment right to free exercise of religion, as articulated in Count I of the Amended Complaint (Id. at ¶¶ 201-03);
 - (ii) denial of an Eighth Amendment right to be free from cruel and unusual punishment, as articulated in Count III of the Amended Complaint (Id. at ¶¶ 209-12); and
 - (iii) denial of a Fourteenth Amendment right to equal protection, as articulated in Count V of the Amended Complaint (Id. at ¶¶ 216-18).
 - (b) Plaintiff's Procedural Due Process claim against Defendant Joseph F. Tavares, as articulated in Count IV of the Amended Complaint (Id. at ¶¶ 213-15), is **DISMISSED with prejudice**
- (3) Defendant Michael Gomes' Motion to Dismiss the Amended Complaint (Doc. 161) is **GRANTED**. All claims against Defendant Michael Gomes are **DISMISSED with prejudice**.
- (4) The action is **RECOMMITTED** to Magistrate Judge Schwab for further proceedings.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge